

## MEMORANDUM OF UNDERSTANDING

Made this 14th day of Feb., 2001, by and between the National Institutes of Health, a Public Health Service agency within the Department of Health and Human Services, an agency of the Federal Government, hereinafter referred to as "NIH," and the Washington Suburban Sanitary Commission, a body corporate and an agency of the State of Maryland, hereinafter referred to as "WSSC."

WITNESSETH:

WHEREAS, WSSC is legislatively charged with the duty of providing water and sewer service in the Washington Suburban Sanitary District, which comprises most of Prince George's and Montgomery Counties, Maryland; and

WHEREAS, at the NIH campus in Bethesda, Maryland, numerous active connections (water and sewer) exist between the NIH's plumbing system and the WSSC system; and

WHEREAS, the General Assembly of Maryland, by Act of 1918, Chapter 122 and various Acts amendatory thereof and supplementary thereto, has authorized and empowered the WSSC to formulate, modify and enforce rules, regulations, and requirements governing plumbing, gasfitting, and water and sewer construction, in any building or upon any private property within the Washington Suburban Sanitary District.

WHEREAS, the NIH believes that the Public Building Amendments of 1988 (Public Law 100-678, §6(a), 40 U.S.C. §619) fully apply to the NIH campus in Bethesda, but to the extent that the NIH has sovereign immunity from WSSC's regulatory authority over plumbing, gasfitting, water and sewer construction on the NIH campus in Bethesda, neither those amendments nor any provision of this Memorandum of Understanding constitutes a waiver of such immunity.

WHEREAS, the NIH and WSSC are nevertheless jointly and severally desirous of establishing a mutual standard of cooperation to continue to safeguard the health, safety and welfare of all users of both the NIH plumbing system at the Bethesda campus and the WSSC system, and to safeguard the integrity of both the NIH plumbing system and the WSSC system.

NOW, THEREFORE, in consideration of the premises and the benefits to be received by the parties hereto, which are hereby acknowledged, the parties do hereby agree, without waiving any rights with respect thereto and subject to the availability of appropriations, as follows:

1. This Memorandum of Understanding replaces and supersedes the Memorandum of Understanding between the NIH and the WSSC dated May 23, 1994.

2. It is agreed and understood that NIH is not required to submit for WSSC review and approval, design drawings for modifications or extensions of the NIH campus water distribution and sewer collection system unless such modifications or extensions involve or otherwise conflict with existing WSSC water or sewer mains. However, all such drawings indicating modifications or extensions of the campus water distribution and sewer collection system shall be submitted to WSSC for record purposes only. Further, NIH is not required to apply for and obtain WSSC plumbing, gasfitting, or on-site permits for new or retrofit work inside campus buildings or on the campus water distribution or sewer collection system.
3. NIH agrees to install backflow prevention devices on the water supply lines to each non-residential building on the Bethesda campus immediately prior to any branching; backflow prevention devices need not be installed on the supply lines to residential buildings, unless required by the Plumbing and Gasfitting Regulations of the Washington Suburban Sanitary District.
4. The above backflow prevention devices to each building shall be as specified by WSSC and installed in accordance with the Plumbing and Gasfitting Regulations of the Washington Suburban Sanitary District.
  - (a) NIH shall own and maintain these devices.
  - (b) Inspections and maintenance shall be on an annual basis and performed by WSSC-Certified NIH or contract Backflow Prevention Technicians. NIH shall provide test reports to WSSC annually. For new installations, WSSC shall inspect backflow preventer installations prior to devices being placed in service. WSSC shall provide training to NIH employees to meet certification requirements. Training costs to be borne by the NIH.
  - (c) The Commission may, at its discretion, inspect the backflow prevention devices annually and NIH agrees to reimburse the WSSC for the cost of inspection.
5. The NIH agrees to assume full and complete responsibility for the safety and integrity of the potable water, sewer collection, plumbing, and gasfitting installations within the NIH campus in Bethesda, Maryland. It is the intent of NIH that the WSSC not be held liable for any damages arising out of or in connection with the on-site water and sewer systems, plumbing systems or gasfitting installations at the NIH campus, but no indemnification of WSSC by NIH is intended or provided to the extent that NIH is prohibited by law from providing such indemnification. The WSSC shall be responsible for the safety of the potable water delivered to NIH up to the outlet side of the WSSC meter.
6. The NIH shall require all architectural/engineering contracts for new construction or renovation activity to produce designs that to the maximum extent feasible, as determined by NIH, are in compliance with the latest edition of the Plumbing and Gasfitting Regulations of the Washington Suburban Sanitary District. The NIH shall perform, to the maximum extent feasible as determined by NIH, all plumbing, gasfitting, water

distribution and sewer collection system construction at the NIH campus in accordance with the latest edition of the Plumbing and Gasfitting Regulations of the Washington Suburban Sanitary District, the WSSC Design Standards, and WSSC Standard Details for Construction.

7. The NIH will be responsible for all routine WSSC fees for goods and services provided by WSSC at the Bethesda campus including, System Development Charges (SDC) associated with new construction, WSSC mainline connection charges, and all other fees and charges authorized by law. NIH will submit to WSSC, for the purpose of SDC fee computation and levy, final plumbing mechanical drawings indicating in sufficient detail all proposed plumbing fixtures, devices, and equipment. These drawings must be submitted as early as possible in the design/construction process but in all instances before the building is placed in service. WSSC will maintain an accounting of accrued fees and charges and will invoice NIH for all such fees and charges. NIH will pay all fees and charges according to existing Federal Prompt Payment Regulations.
8. The NIH will continue to recognize the WSSC Industrial Discharge Control Program.
9. WSSC will process NIH applications, inquiries and design reviews on a priority basis.
10. NIH agrees to restrict to their specific function the use of fire hydrants and all other water main appurtenances not protected by WSSC approved backflow prevention devices.
11. The NIH will estimate the amount of unmetered condensate water conveyed to the WSSC sewer system and will pay annually WSSC sewer usage charges thereon at prevailing WSSC service rates. These charges shall be in addition to sewer usage charges associated with metered water consumption at the NIH campus in Bethesda, Maryland.
12. WSSC and NIH agree to jointly develop procedures that will facilitate NIH requests/inquiries, WSSC design reviews, service applications, and payment processes.
13. In recognition of the respective rights and responsibilities of NIH and WSSC pursuant to this Memorandum of Understanding, it is mutually agreed that meetings shall be convened at least annually to facilitate communication regarding plans, actions, and concerns of each party.
14. Neither this Memorandum of Understanding nor any of the provisions contained herein shall be construed as a waiver by either party of any legal position or theory with respect to the issue of regulatory authority for plumbing and gasfitting installations at the NIH campus in Bethesda, Maryland, that it may assert in any future proceedings or transactions involving the parties.
15. Each of the signatories hereto warrants and represents that he or she has full authority to sign this Memorandum of Understanding on behalf of his or her respective agency and thereby bind the agency to the terms and conditions herein.


16. This Memorandum of Understanding may be terminated by either party upon six-months written notice. Notices shall be sent to:

National Institutes of Health  
Division of Engineering Services  
Design, Construction, and Alteration Branch  
Building 13, 13 South Drive  
Bethesda, MD 20892-5742

Washington Suburban Sanitary Commission  
Regulatory Services Group  
14501 Sweitzer Lane  
Laurel, MD 20707-5902

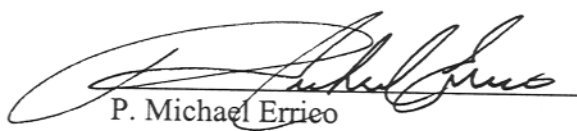
IN WITNESS WHEREOF, the National Institutes of Health and the Washington Suburban Sanitary Commission have executed the above MEMORANDUM OF UNDERSTANDING on the day and year first written above.

**NATIONAL INSTITUTES OF HEALTH**

  
Stephen A. Ficca  
Associate Director for Research Services

Date: 2-14-01

**WASHINGTON SUBURBAN SANITARY COMMISSION**

  
P. Michael Errieo  
Deputy General Manager

Date: 2/5/01